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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
AN, IG TAI	

ART UNIT	PAPER NUMBER
3687	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/668,395	KIRKLEY, ADAM J.	
	Examiner	Art Unit	
	Ig T. An	3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The Amendment filed on 10 July 2008 has been acknowledged. Claims 1 and 11 – 13 are amended. Claim 14 are newly presented. Therefore, Claims 1 – 14 are pending and examined as set forth.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 - 2, and 4 - 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Swartz (US 5877485).

As per Claim 1, Swartz discloses a security method for a self-service checkout system (Abstract) comprising the steps of:

a) obtaining identification information of a customer involved in a self-service transaction (Column 4 line 27 – 42 teaches the system receive customer information in a transaction from a customer loyalty card);

b) determining a risk level associated with the identification information of the customer (Abstract teaches the risk level/ number of items to check based on the identification information of the customer such as shopping frequency, queue length, prior history, and etc.);

c) determining a security level associated with the risk level (Abstract and Column 6 lines 45 – column 7 line 34 teaches how many items to be check is determined based on security criteria and customer identification information such as shopping frequency, prior history and etc.); and

d) configuring the self-service checkout system for the security level (Abstract teaches the self checkout system that determines how many items to check by cashier or security guard based on the security level).

As per Claim 2, Swartz discloses obtaining the identification information from a loyalty card carried by the customer (Column 4 line 27 – 42).

As per Claim 4, Swartz discloses

b-1) storing shopping history data of the customer (Abstract); and

b-2) assigning a risk level based upon the shopping history data of the customer (Abstract).

As per Claim 5, Swartz discloses

b-1) storing shopping history data of the customer (Column 7 lines 3 – 8);

b-2) obtaining current transaction data of the customer (Column 6 lines 45 – 54); and

b-2) assigning a risk level based upon the shopping history data of the customer and the current transaction data of the customer (Column 7 line 35 – 55).

As per Claim 6, Swartz discloses

b-1) defining categories of shoppers of different risk levels (Abstract);

b-2) storing shopping history data of the customer (Abstract);

b-3) determining a category of the customer by comparing the shopping history data of the customer to the categories of shoppers (Column 7 line 35 – 55); and

b-4) determining that the risk level is associated with the category of the customer (Column 7 line 35 – column 8 line 15).

As per Claim 7, Swartz discloses

c-1) looking up the risk level of the customer in an established list of risk levels (Column 7 line 35 – column 8 line 15); and

c-2) determining that the security level of the customer is associated with the risk level of the customer in the list (Column 8 line 16 – 49).

As per Claim 8, Swartz discloses relaxing security for lower security levels (Abstract and column 7 line 35 – column 8 line 24. Fewer items will be checked for a customer who is high security level and low risk level).

As per Claim 9, Swartz discloses tightening security for higher security levels (Abstract and column 7 line 35 – column 8 line 24. More items will be checked for a customer with higher risk level and lower security level).

As per Claim 10, Swartz discloses

e) implementing configured security procedures for the security level until the customer leaves the self-service checkout system (Column 8 line 16 – 49); and

f) storing data from the transaction in shopper history data of the customer (Column 8 line 36 – 49).

Claims 11 – 14 have similar limitations as Claims 1 – 2 and 4 - 10. Therefore, Claims 11 – 14 are rejected under same rationale.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz in view of Zhang et al. (hereinafter Zhang) (US 20030177066).

As per Claim 3, Swartz discloses all the elements of the claimed invention, but is silent regarding obtaining biometric data from the customer; and determining that the identification information of the customer is associated with the biometric data of the customer.

Zhang discloses an integrated marketing promotion system and method having obtaining biometric data from the customer (Paragraph 127); and determining that the identification information of the customer is associated with the biometric data of the customer (Paragraph 127).

Therefore, from this teaching of Zhang, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify self-scanning checkout system of Swartz to include biometric data of customer as a identification information as taught by Zhang to easily identify and verify the customer.

Response to Arguments

6. Applicant's arguments filed 10 July 2008 have been fully considered but they are not persuasive.

The Applicant first argues, "Claims 1-2 and 4-10 stand rejected under 35 U.S.C. 102(b) as anticipated by Swartz. Claims 11-13 stand rejected under 35 U.S.C. 103(a) as unpatentable over Swartz in view of Zhang." The Examiner notes that Claims 11 – 13 are rejected under 35 U.S.C. 102(b) as anticipated by Swartz. Please refer to the previous office action.

7. The Applicant next argues, "Swartz implements security after self-service operation, not during self-service operation. Security is implemented at POS terminal 6. The customer proceeds to POS terminal 6, which is manned by a cashier." In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Security is implemented at POS terminal 6. The customer proceeds to POS terminal 6, which is manned by a cashier) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Applicant next argues, "Swartz fails to disclose security levels associated with risk levels and configuring a self-service checkout system based upon a security level. The hand-held scanner is the only piece of self-service equipment, and Swartz fails to teach configuring it based upon a security level." The Examiner respectfully disagrees. As mentioned in the previous Office Action, "Abstract and Column line 45 – column 7 line 34 teaches a hosting computer determining risk and security levels based on different security criteria and customer identification information as mentioned in the previous office action. Column 7 lines 35 – Column 8 lines 48 further teaches what

specific security criteria are used when the customer self-scans the items at the POS terminal.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ig T. An whose telephone number is (571)270-5110. The examiner can normally be reached on Monday - Thursday from 9:30 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
Supervisory Patent Examiner, Art Unit 3687

/Ig T. An/
Examiner, Art Unit 3687